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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,741	09/12/2003	Simon Tong	53051/288305	8303

40400 7590 08/24/2006

PATENT DEPARTMENT - 53051  
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EXAMINER

LEWIS, CHERYL RENE A

ART UNIT PAPER NUMBER

2167

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/661,741	<b>Applicant(s)</b> TONG ET AL.	
	<b>Examiner</b> Cheryl Lewis	<b>Art Unit</b> 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/06 &amp; 8/8/06</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is in response to the applicant's communication received on June 8, 2006.
2. Claims 1-44 are presented for examination. Applicants have amended claims 1-8, 10-21, 23-30, and 32-44.
3. Applicants' arguments with respect to claims 1-44 have been considered but are deemed to be moot in view of the new grounds of rejection.

### *Response to Arguments*

4. The applicants have amended claims 1-8, 10-21, 23-30, and 32-44. Therefore, the applicants are arguing the claims as currently amended. The claims have been amended to comprise the following claim limitations: 'identifying at least a first population group associated with the user' and 'determining a population signal for the first article based at least in part on the first population signal group'.
5. Although, Chaudhry does not specifically teach a population signal. The examiner has relied on the Chaudhry reference to teach 'receiving a search query associated with a user; identifying at least a group associated with the user; determining a first article associated with the search query; a first article; and determining a first ranking score for the first article'.

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Therefore examiner respectfully disagrees with the applicants' arguments. The Chaudhry reference and the newly cited reference, Rieffanaugh, have been used to form a 103 rejection. It is believed that the combination of references does constitute a proper 103 rejection. Court rulings state (1) Common sense, an artisan is likely to extract more than a layman from reading a reference. Furthermore, as the Court has said "it is not necessary that the cited references or prior art specifically suggest making the combination."

**In re Nilssen, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (CAFC 1988).**

#### ***INFORMATION DISCLOSURE STATEMENT***

6. The information disclosure statements filed on June 23, 2006 and August 8, 2006, complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

#### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

#### **MPEP 2106 IV.B.2.(b)**

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at

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296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

9. Claims 1 and 23 are not statutory because the claims do not produce a tangible result.

Upon closer examination of the applicants' independent claims, the examiner has concluded that the independent claims have a practical application. However, the practicality of this application does not produce tangible results. For instance, independent claim 1 comprises receiving a search query associated with a user, followed by an identity of a first population group being associated with the user. Next, a determination is made to associated an article with a query and a population signal is associated with an article based on the population group. Finally, a ranking score is applied to the article based on the population signal.

The above description of independent claim 1 does not produce tangible results. The claims begin with a search query, but there is no manipulation of the search query. The claims further detail associating and making a determination to associate an article with a population group and a population signal. The claims fail to manipulate any data or data structures that would produce a tangible result.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaudhry (Pat. No. 6,567,103 B1 filed August 2, 2000) and Rieffanaugh, Jr. (Pub. No. 2004/0153472 A1 filed August 29, 2003, priority to provisional application no. 60/493,651 filed August 7, 2003, hereinafter Rieffanaugh).

12. Regarding Claims 1 and 23, Chaudhry teaches graphical results system and method.

The method and associated system for as taught or suggested by Chaudhry includes:

receiving a search query (3, lines 54-67, col. 4, lines 1-15); determining a first article associated with the search query (col. 4, lines 16-41); and determining a first ranking score for the first article based at least in part on data (col. 4, lines 16-41, col. 5, lines 11-52 and 58-63).

However, Chaudhry does not expressly teach a first population group and determining a population signal.

Rieffanaugh teaches a first population (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492) and determining a population signal (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the query population method of Rieffanaugh with the query relevance generating method of Chaudhry because Rieffanaugh's query

population could enable the query relevance generating method to comprise a query population engine, wherein the query population engine provides and associates people and places with particular user queries.

13. Regarding Claims 2, 24, and 28, Rieffanaugh teaches determining a first population associated with the search query comprises determining a demographic data associated with a sender of the search query (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

14. Regarding Claims 3 and 25, Rieffanaugh teaches determining the demographic data associated with the sender comprises determining a likely geographic location for the sender (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

15. Regarding Claim 4, Rieffanaugh teaches determining the likely geographic location for the sender comprises determining at least one of the following: demographic data input by the sender (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

16. Regarding Claims 5 and 27, Rieffanaugh teaches the demographic data for the sender comprises determining at least one of the following: a country (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

17. Regarding Claim 6, Rieffanaugh teaches the first population associated with the search query comprises determining a demographic data associated with the search query (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

18. Regarding Claims 7 and 29, Rieffanaugh teaches determining the demographic data associated with the search query comprises at least one of the following:

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determining the language of the search query (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

19. Regarding Claims 8 and 30, Rieffanaugh teaches the first population associated with the search query comprises determining a self-identification data associated with a user transmitting the search query (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

20. Regarding Claims 9 and 31, Rieffanaugh teaches the self-identification is selected from at least one of the following user preference data (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).

21. Regarding Claims 10 and 32, Chaudhry teaches the search query comprises determining an automatic-identification data associated with a user transmitting the search query (col. 3, lines 42-67, col. 4, lines 3-23).

22. Regarding Claims 11, 26, and 33, Chaudhry teaches the automatic-identification data comprises at least one of the following an IP address (col. 5, lines 56-67).

23. Regarding Claims 12 and 34, Chaudhry teaches a selection score for the first article (col. 4, lines 16-41, col. 5, lines 11-52 and 58-63).

24. Regarding Claims 13 and 35, Chaudhry teaches the selection score for the first article in the context comprises a number of clicks for the article (col. 4, lines 16-41, col. 5, lines 11-52 and 58-63).

25. Regarding Claims 14 and 36, Rieffanaugh teaches the first population comprises a number of members of the population (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492).



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26. Regarding Claims 15 and 37, Rieffanaugh teaches the number of members of the first population comprises a number of members of the first population that selected a result returned for the search query (paragraphs 0086-0097 (People – Query Module/Engine and 0098-0492)).

27. Regarding Claims 16, 17, 38, and 39, the limitations of these claims have been noted in the rejections of claims 14 and 15 presented above. They are therefore rejected as set forth above.

28. Regarding Claims 18-20 and 40-42, the limitations of these claims have been noted in the rejections of claims 1, 12, and 18 presented above. They are therefore rejected as set forth above.

29. Regarding Claims 21 and 43, Chaudhry teaches determining a second article associated with the search query (col. 4, lines 16-41); and determining a second ranking score for the article based at least in part on the data (col. 4, lines 16-41, col. 5, lines 11-52 and 58-63).

30. Regarding Claims 22 and 44, Chaudhry teaches ranking the first article and the second article based at least in part on the first ranking score and the second ranking score (col. 4, lines 16-41, col. 5, lines 11-52 and 58-63).

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***NAME OF CONTACT***

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cheryl Lewis". The signature is fluid and cursive, with the first name "Cheryl" written in a larger, more prominent script than the last name "Lewis".

Cheryl Lewis  
Patent Examiner  
August 21, 2006